

## AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

### Listing of Claims:

1 – 42. (CANCELED)

43. (CURRENTLY AMENDED) A method for preparing a synthetic promoter which comprises the steps of:

a) comparing the sequence of a template promoter with known nucleic acid sequences;

b) selecting 20 base pair to 100 base pair segments of said known nucleic acid sequences that have between 60% and 100% homology to 20 base pair to 100 base pair segments of the template promoter sequence;

c) placing said 20 base pair to 100 base pair segments in the order in which said segments occur in the template promoter to produce a first synthetic promoter having over at least 15% of its sequence different from that of the template promoter; and

d) testing the first synthetic promoter for activity.

44. (PREVIOUSLY PRESENTED) The method of claim 43, which further comprises the steps of:

e) modifying the sequence of the first synthetic promoter which does not have maintained or improved activity compared to the template promoter to produce a second synthetic promoter; and

f) testing the synthetic promoter for activity.

45. (PREVIOUSLY PRESENTED) The method of claim 44, wherein steps (e) and (f) are repeated one or more times until a synthetic promoter is produced which has maintained or improved activity compared to the template promoter.

46 - 48. (CANCELED)

49. (PREVIOUSLY PRESENTED) The method of claim 43 wherein said known nucleic acid sequences are selected from a GenBank database or an equivalent database.

**Application No. 09/782,255**  
**Amendment dated May 18, 2006**  
**Reply to Office Action dated January 25, 2006**

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50.-52. (CANCELED)